

Senate File 180 - Introduced

SENATE FILE _____
BY McKIBBEN, ANGELO, PUTNEY,
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HOUSER, and HAHN

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the criminal penalties for certain offenses
2 involving sexual abuse in the second degree, lascivious acts
3 with a child, and sexual exploitation, and establishing a duty
4 to inform law enforcement about a registered sex offender.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 2254XS 82
7 jm/gg/14

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1 1 Section 1. NEW SECTION. 692A.7A DUTY TO INFORM LAW
1 2 ENFORCEMENT == PENALTY.
1 3 A person commits a class "D" felony if the person knows
1 4 that another person is required to register under this chapter
1 5 and that the other person is not in compliance with this
1 6 chapter or is eluding a law enforcement agency that is seeking
1 7 to find the other person, and the person does any of the
1 8 following acts:
1 9 1. Withholds information from or fails to notify a law
1 10 enforcement agency about the whereabouts of the other person.
1 11 2. Provides materially false information to a peace
1 12 officer about the other person.
1 13 3. Harbors the other person.
1 14 4. Conceals the other person.
1 15 Sec. 2. Section 902.9, unnumbered paragraph 1, Code 2007,
1 16 is amended to read as follows:
1 17 The maximum sentence for any person convicted of a felony
1 18 shall be that prescribed by statute or, if not prescribed by
1 19 statute, if other than a class "A" or class "B1" felony shall
1 20 be determined as follows:
1 21 Sec. 3. NEW SECTION. 902.9A CLASS "B1" FELONS.
1 22 A person convicted of a class "B1" felony shall be confined
1 23 for a term of years as ordered by the court at the time of
1 24 sentencing. The minimum term of confinement shall be twenty=
1 25 five years and the maximum term of confinement may be for the
1 26 rest of the defendant's life.
1 27 Sec. 4. NEW SECTION. 902.15 SEXUAL ABUSE, LASCIVIOUS
1 28 ACTS, OR SEXUAL EXPLOITATION == ENHANCEMENT.
1 29 Notwithstanding the penalty for a violation of section
1 30 709.3, 709.8, or 728.12, if a person eighteen years of age or
1 31 older commits an offense against a child twelve years of age
1 32 or younger in violation of section 709.3, 709.8, or 728.12,
1 33 subsection 1, the person commits a class "B1" felony and shall
1 34 be denied parole or work release until the term of the
1 35 sentence ordered pursuant to section 902.9A has been served.
2 1 Sec. 5. Section 903A.2, subsection 1, unnumbered paragraph
2 2 1, Code 2007, is amended to read as follows:
2 3 Each inmate committed to the custody of the director of the
2 4 department of corrections is eligible to earn a reduction of
2 5 sentence, except as provided in paragraph "c", in the manner
2 6 provided in this section. For purposes of calculating the
2 7 amount of time by which an inmate's sentence may be reduced,
2 8 inmates shall be grouped into the following ~~two~~ three
2 9 sentencing categories:
2 10 Sec. 6. Section 903A.2, subsection 1, Code 2007, is
2 11 amended by adding the following new paragraph:
2 12 NEW PARAGRAPH. c. Category "C" sentences are those

2 13 sentences which are classified as class "B1" felonies under
2 14 section 902.15. An inmate of an institution under the control
2 15 of the department of corrections who is serving a category "C"
2 16 sentence is not eligible for a reduction of sentence.

2 17 Sec. 7. Section 903A.7, Code 2007, is amended to read as
2 18 follows:

2 19 903A.7 SEPARATE SENTENCES.

2 20 Consecutive multiple sentences that are within the same
2 21 category under section 903A.2 shall be construed as one
2 22 continuous sentence for purposes of calculating reductions of
2 23 sentence for earned time. If a person is sentenced to serve
2 24 sentences of ~~both~~ multiple categories, category "C" sentences
2 25 shall be served before category "B" or "A" sentences are
2 26 served, category "B" sentences shall be served before category
2 27 "A" sentences are served, and earned time accrued against
2 28 category "C" sentences shall not be used to reduce category
2 29 "B" or "A" sentences, and earned time accrued against the
2 30 category "B" sentences shall not be used to reduce the
2 31 category "A" sentences. If an inmate serving a category "A"
2 32 sentence is sentenced to serve either a category "C" or "B"
2 33 sentence, the category "A" sentence shall be interrupted, and
2 34 no further earned time shall accrue against that sentence
2 35 until the category "C" or "B" sentence is completed.

3 1 Sec. 8. Section 903B.1, Code 2007, is amended to read as
3 2 follows:

3 3 903B.1 SPECIAL SENTENCE == CLASS "B1", CLASS "B", OR CLASS
3 4 "C" FELONIES.

3 5 A person convicted of a class "C" felony or greater offense
3 6 under chapter 709, ~~or~~ a class "C" felony under section 728.12,
3 7 or a class "B1" felony under section 902.15, shall also be
3 8 sentenced, in addition to any other punishment provided by
3 9 law, to a special sentence committing the person into the
3 10 custody of the director of the Iowa department of corrections
3 11 for the rest of the person's life, with eligibility for parole
3 12 as provided in chapter 906. The special sentence imposed
3 13 under this section shall commence upon completion of the
3 14 sentence imposed under any applicable criminal sentencing
3 15 provisions for the underlying criminal offense and the person
3 16 shall begin the sentence under supervision as if on parole.
3 17 The person shall be placed on the corrections continuum in
3 18 chapter 901B, and the terms and conditions of the special
3 19 sentence, including violations, shall be subject to the same
3 20 set of procedures set out in chapters 901B, 905, 906, and
3 21 ~~chapter~~ 908, and rules adopted under those chapters for
3 22 persons on parole. The revocation of release shall not be for
3 23 a period greater than two years upon any first revocation, and
3 24 five years upon any second or subsequent revocation. A
3 25 special sentence shall be considered a category "A" sentence
3 26 for purposes of calculating earned time under section 903A.2.

3 27 Sec. 9. Section 907.3, subsection 1, paragraph a, Code
3 28 2007, is amended to read as follows:

3 29 a. The offense is a violation of section 709.8 or 728.12,
3 30 subsection 1, and the child is twelve years of age or under.

3 31 EXPLANATION

3 32 This bill relates to the criminal penalties for sexual
3 33 abuse in the second degree, lascivious acts with a child, and
3 34 sexual exploitation, and requiring a duty to inform law
3 35 enforcement about a sex offender required to register.

4 1 The bill provides that a person commits a class "D" felony
4 2 if a person knows that a sex offender required to register is
4 3 not in compliance with the sex offender registry Code chapter,
4 4 chapter 692A, or is eluding a law enforcement agency and does
4 5 any of the following: withholds information from or fails to
4 6 notify a law enforcement agency about the whereabouts of the
4 7 sex offender; provides materially false information to a peace
4 8 officer about the sex offender; or harbors or conceals a sex
4 9 offender.

4 10 The bill enhances the criminal penalties, by creating a new
4 11 class "B1" felony category, for sexual abuse in the second
4 12 degree (Code section 709.3), lascivious acts with a child
4 13 (Code section 709.8), and sexual exploitation of a minor (Code
4 14 section 728.12, subsection 1), for a person 18 years of age or
4 15 older who commits an offense against a child 12 years of age
4 16 or younger. A class "B1" felony is punishable by a minimum
4 17 term of confinement of 25 years and a maximum term of
4 18 confinement that may be for the rest of the person's life. A
4 19 person serving a class "B1" felony is not eligible to receive
4 20 earned time. A class "B1" felon is also not eligible for
4 21 parole or work release.

4 22 The bill also prohibits a person from receiving a suspended
4 23 sentence, deferred sentence, or deferred judgment, if the

4 24 person commits sexual exploitation of a minor involving a
4 25 child who is 12 years of age or younger. Current law
4 26 prohibits a person committing any sexual abuse in the second
4 27 degree or lascivious acts with a child involving a child 12
4 28 years of age or younger from receiving a suspended sentence,
4 29 deferred sentence, or deferred judgment.
4 30 The bill also provides that a person serving a class "B1"
4 31 sentence shall also serve a special sentence as provided in
4 32 Code section 903B.1. The special sentence provides, in
4 33 addition to any other punishment provided by law, that a
4 34 person be committed to the custody of the director of the Iowa
4 35 department of corrections for the rest of the person's life,
5 1 with eligibility for parole as provided in Code chapter 906.
5 2 Under the bill, the special sentence imposed shall commence
5 3 upon completion of the class "B1" felony sentence imposed and
5 4 the person shall begin the sentence under supervision as if on
5 5 parole. The bill provides the person shall be placed on the
5 6 corrections continuum in Code chapter 901B, and the terms and
5 7 conditions of the special sentence, including violations,
5 8 shall be subject to the same set of procedures set out in Code
5 9 chapters 901B, 905, 906, and 908, and rules adopted under
5 10 those chapters for persons on parole. The bill provides that
5 11 if such a person violates the conditions of release, the
5 12 revocation of release shall not be for a period greater than
5 13 two years upon any first revocation, and five years upon any
5 14 second or subsequent revocation. A person serving a special
5 15 sentence under the bill may be discharged early from the
5 16 sentence by the board of parole in the same manner as a person
5 17 on parole.
5 18 LSB 2254XS 82
5 19 jm:rj/gg/14